

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D. C.**

In the Matter of)	
)	
Provision of Improved)	
Telecommunications Relay Services and)	
Speech-to-Speech Services for Individuals)	
with Hearing and Speech Disabilities)	CC Docket No. 98-67
)	
Petition for Clarification of WorldCom,)	
Inc.)	

**COMMENTS OF THE PUBLIC SERVICE
COMMISSION OF THE STATE OF MISSOURI**

The Public Service Commission of the State of Missouri (“MoPSC”) offers the following comments in response to the Federal Communication Commission’s (“Commission”) Declaratory Ruling and Second Further Notice of Proposed Rulemaking (“FNPRM”) released April 22, 2002 in the above docketed case. In the Declaratory Ruling, the Commission found that Internet protocol relay service (“IP Relay”) falls within the statutory definition of telecommunications relay service (“TRS”). The Commission further found that such services are eligible for cost recovery in accordance with Section 225 of the Communications Act of 1934, as amended (“the Act”). The Commission, in the FNPRM, seeks comment on the appropriate jurisdictional allocation for IP Relay costs. The Commission also seeks comment on how IP Relay providers can develop, if necessary, a method to determine whether a call is intrastate or interstate.

In the FNPRM, the Commission addresses two proposals for determining a cost recovery scheme for TRS. The first leg of an IP Relay call comes over the Internet, which does not have a geographic identifier that can automatically identify the location of the caller. Thus, the first proposal addresses a

method for identifying the origination of the IP Relay call and would require IP Relay callers to establish profiles that identify the state from which a call originates. The second proposal suggests a cost allocation formula based on an approximation of the mix of IP Relay interstate/intrastate calls.

Although the Commission declined to adopt either of these methods at the time of the Declaratory Ruling, the Commission noted that it was in the public interest to authorize a compensation method pending the development of a more permanent methodology. Since there is no automatic means for determining whether a call made via IP Relay is intrastate or interstate, the Commission authorized an interim recovery of all costs from the Interstate TRS Fund pending a decision in the FNPRM. The Commission found this determination was supported by Section 225 of the Act, which “generally” provides that costs caused by interstate services shall be recovered from interstate jurisdiction and costs caused by intrastate service shall be recovered from intrastate jurisdiction. In the FNPRM, the Commission seeks comment as to whether Section 225 of the Act requires the development of a cost allocation methodology for IP Relay calls, or whether the statute gives the Commission discretion to conclude that all costs for IP Relay shall be reimbursable from the Interstate TRS Fund permanently.

Just as the Commission found the use of the word “generally” allowed the flexibility to determine the costs for IP Relay could be reimbursable from the Interstate TRS Fund on an interim basis, the MoPSC asserts the same term allows the Commission flexibility in allocating IP Relay costs to interstate jurisdiction permanently. Since the Commission previously determined that Internet traffic is interstate in nature¹ and it is difficult to identify the origination of IP Relay, the MoPSC further suggests that, not only does the Commission have the discretion to determine that all costs for IP Relay

¹Declaratory Ruling in CC Docket No. 96-98 and Notice of Proposed Rulemaking in CC Docket No. 99-68. *In the Matter of Implementation of Local Competition Provisions in the Telecommunications Act of 1996 and Inter-Carrier Compensation for ISP-Bound Traffic*. Released February 26, 1999.

shall be reimbursable from the Interstate TRS Fund, it is also appropriate to allocate IP Relay calls as interstate.

There is currently one TRS provider in each state, except for California. As WorldCom argues, recovering costs from states would require all potential TRS providers to “go through the very difficult and lengthy process of negotiating contracts with all 50 states.”² Missouri statutes, and presumably other state statutes, do not require Internet service providers to become certificated as telecommunications providers. Therefore, Internet traffic is largely unregulated or subject to interstate jurisdiction. If the Commission determines that some portion of costs for IP Relay calls should be recovered as intrastate, the MoPSC questions the ease and validity of state commissions to track non-state certificated or regulated entities and the ability of the state commissions to determine that such entities can legitimately bill and be compensated for IP Relay calls.

In the FNPRM, the Commission also seeks comment on what methods exist or could be developed to determine the location of a caller using IP Relay. In much the same manner as with a toll free 800-number, it is difficult to determine the origination of an IP Relay call. As previously stated, the MoPSC supports allocating the entire cost to the Interstate TRS Fund consistent with the finding that Internet calls are largely interstate in nature. However, should the Commission determine that it is appropriate to allocate the funds jurisdictionally, the MoPSC suggests that the appropriate methodology for devising a fixed allocator would be to follow the same ratio used when allocating the interstate and intrastate portion of the toll free call. In other words, allocate sixty percent to the Interstate TRS Fund and forty percent to the states.

²Declaratory Ruling and Second Further Notice of Proposed Rulemaking. *In the matter of Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities and Petition for Clarification of WorldCom, Inc.* CC Docket No. 98-67. Released April 22, 2002. para. 18.

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